

REMARKS

The present patent application has been reviewed in light of the Final Office Action, dated August 26th, 2004, in which claims 156-181 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shear (US Patent No. 4,827,508) in view of Nozawa et al. (hereinafter "Nozawa," US Patent No. 5,235,641). Reconsideration of the present patent application in view of the following remarks is respectfully requested.

Claims 156-181 are currently pending. No claims have been amended, added, or cancelled.

The Examiner has rejected claims 156-181 under 35 U.S.C. 103(a) as being unpatentable over Shear in view of Nozawa. This rejection by the Examiner is respectfully traversed.

It is well established that to establish a *prima facie* case of obviousness, three basic criteria must be met. First, a suggestion or motivation must be shown, either in the references themselves or in knowledge generally available to one of ordinary skill in the art, to modify a prior art reference or combine two or more prior art references. Second, a reasonable expectation of success in making this combination or modification must be shown. Third, it must be shown that the combination or modification, if proper, contains all of the elements of the application under examination. If any of these elements are not met, a successful *prima facie* case of obviousness has not been established.

It is respectfully asserted that Shear and Nozawa, whether viewed alone or in combination, do not contain all of the elements of the rejected claims. However, Applicant does not by this argument accept that the combination is proper; rather, while Applicant asserts that the combination is improper, Applicant further asserts that even if the combination were proper, the combination would still fail to provide all the elements of the rejected claims.

In particular, the Examiner already concedes that “Shear is silent on data control by permit (usage or function) keys.” However, Nozawa fails to provide the elements that the Examiner admits are missing in Shear.

The Examiner asserts that “Nozawa teaches a plurality of algorithms each algorithm controlled by a different key.” Applicant respectfully asserts that this is not correct. Rather, Nozawa merely states that: “...a desired algorithm [is] controlled by a raw data key which is set in the data key storage mechanism...”. In no place does Nozawa suggest, describe, imply, state or even allude to a plurality of encryption algorithms. Rather, Nozawa merely suggests that the key controls the algorithm. This is straight-forward in that, the longer the key, the more secure the encryption. This realization does not, by itself, teach a plurality of algorithms.

Furthermore, even if Nozawa did teach a plurality of algorithms, which Applicant believes it does not, still Nozawa would be missing “...a plurality of utilization permit keys that corresponds only to at least one of different types of uses...,” as recited, for example, in claim 156. The Examiner is unable to establish that Nozawa provides this – because the foregoing element is not taught, described or even suggested by Nozawa. Again, the Examiner has conceded that “Shear is silent on data control by permit (usage or function) keys.” Thus, combining Shear with Nozawa fails to provide the missing element recited above.

It is respectfully asserted, therefore, that at least one prong of the three-prong test for obviousness has not been satisfied, and a *prima facie* case of obviousness under section 103 of the patent statute has not been made. Thus, it is asserted that claim 156 patentably distinguishes from the cited patents, whether the patents are considered alone or in combination.

There are many other reasons why claim 156 patentably distinguishes from the cited patents and Applicant does not rely on the foregoing distinction alone. Nonetheless, the foregoing is believed

to be more than sufficient to overcome the Examiner's rejection. It is, therefore, respectfully requested that the Examiner withdraw his rejection as to this claim.

The remaining claims rejected by the Examiner patentably distinguish from the cited patents at least on the same or a similar basis as claim 156. Therefore, Applicant respectfully requests that the Examiner withdraw his rejection as to these other rejected claims as well.

CONCLUSION

In view of the foregoing, it is respectfully asserted that all of the claims pending in the present patent application are in condition for allowance. If the Examiner has any questions, he is invited to contact the undersigned at (503) 640-6475. Reconsideration of the present patent application and early allowance of all the claims is respectfully requested.

Please charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account number 50-3130.

Respectfully submitted,

Dated: _____

2/25/05

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